

Garza/Gonzalez & Associates

CERTIFIED PUBLIC ACCOUNTANTS

STATE OFFICE OF ADMINISTRATIVE HEARINGS Austin, Texas

ANNUAL INTERNAL AUDIT REPORT

Fiscal Year 2020

STATE OFFICE OF ADMINISTRATIVE HEARINGS
Austin, Texas

Annual Internal Audit Report
Fiscal Year 2020

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The Honorable Kristofer Monson
Chief Administrative Law Judge
State Office of Administrative Hearings
Austin, Texas

We performed tests of management's assertion about the effectiveness and efficiency of the internal control structure over SOAH's Records Management Area (Area); and, its compliance with the requirements set by the Texas Government Code, Chapter 441, Subchapter L; Texas Administrative Code Title 13, Chapter 6; other applicable state requirements; and, SOAH's established policies and procedures, as applicable to the Area, for the 5 months ended January 31, 2020.

The results of our tests disclosed that SOAH's internal control structure over the Area and its established policies and procedures, were generally adequate and no material instances of noncompliance were noted; however, we did identify certain matters that are included in this report, that are opportunities for strengthening internal controls and ensuring compliance with state requirements and SOAH's established policies and procedures. Based on the degree of risk or effect of these matters in relation to the audit objective(s), these matters were rated as either Priority, High, Medium, or Low, which is further described in the "Summary and Related Rating of Observations/Findings and Recommendations", which is included in page 15 of this report.

We also performed a follow-up of the findings and recommendations that were presented in the prior year annual internal audit report. This report reflects the implementation status of those matters; and, includes all information required for compliance with the State of Texas Internal Audit Annual Report requirements.

We have discussed the comments and recommendations from the audit of the Area; and, the implementation status from the follow-up performed, with various SOAH personnel, and we will be pleased to discuss them in further detail; to perform an additional study of these matters; or, to assist you in implementing the recommendations.



March 31, 2020

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INTRODUCTION

The State Office of Administrative Hearings (SOAH) was established in 1991 by the 72nd Legislature to serve as the State's independent forum to conduct adjudicative hearings in the executive branch of state government. The establishment of SOAH separates the adjudicative function from the investigative, prosecutorial, and policymaking functions performed by state agencies and also by local governmental entities (collectively "Agencies" in this report). SOAH's enabling statute is the Texas Government Code Chapter 2003, and its procedural rules are found in Title 1, Part 7 of the Texas Administrative Code.

SOAH is headed by a Chief Administrative Law Judge (ALJ) who is appointed by the Texas governor for a renewable two-year term. The Chief ALJ serves as SOAH's executive director and is responsible for agency operations and policymaking, since SOAH does not have a governing board. To be eligible for appointment as the chief ALJ, the individual must be licensed to practice law in Texas, and have practiced administrative law and/or conducted administrative hearings under the Texas Administrative Procedure Act for at least five years combined. The chief ALJ hires the ALJs to conduct hearings. An ALJ must be licensed to practice law in Texas, and is only responsible to the chief ALJ or the senior or master ALJs who are designated by the chief ALJ. SOAH's ALJ is not responsible to or subject to the supervision, direction, or indirect influence of any individuals from the referring agency. SOAH's key activities include the following:

- **Administrative License Revocation (ALR) program** provides contested hearings before SOAH for administrative suspension, denial, or disqualification of a driver's license by the Texas Department of Public Safety (DPS). SOAH oversees these hearings and issues final decisions concerning individuals accused of allegedly driving while intoxicated. ALRs are the most common type of contested cases heard by SOAH.
- **Administrative Hearings** are conducted for contested cases under the Government Code Chapter 2001, the Administrative Procedure Act, for a state agency that does not employ an administrative judge; when SOAH is required to conduct the administrative hearing by other law; and, for a fee and under a contract, matters voluntarily referred by a governmental entity. SOAH issues an order, a proposal for decision, or final decision on these cases in accordance with applicable state rules.
- **Alternative Dispute Resolution (ADR) Procedures**, such as mediations, assist parties involved in contested cases to come to an agreement to avoid more costly and lengthy administrative hearings where appropriate.

The majority of SOAH's staff are ALJs who preside over cases and issue proposals for decision and/or orders. SOAH organizes these ALJs into the following 9 teams, by subject area:

- ADR
- ALR & Field Operations
- Economic
- Health Professions Licensing
- Individuals with Disabilities Education Act (IDEA)
- Occupational Licensing
- Natural Resources
- Tax
- Utilities

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Each ALJ is assigned to a *Home Team*, but often also works on cases in other subject areas. While all ALJs must meet a minimum level of experience, there are specific experience requirements to preside at contested case hearings for natural resources, tax, and utilities. In addition to SOAH's own procedural rules, including those for ALR and the appraisal review board appeals, in certain cases, SOAH also uses other procedural rules from the Public Utility Commission of Texas; the Texas Commission on Environmental Quality; the Comptroller of Public Accounts; the Employees Retirement System of Texas; and, the statutes and rules related to IDEA and the Texas Education Agency.

Hearings are held at SOAH's Austin main office and 7 field offices located in Corpus Christi, Dallas, El Paso, Fort Worth, Houston, Lubbock, and San Antonio. ALR hearings are also held at 31 additional remote locations which are typically local government offices.

2020 Internal Audit Plan

Following is the internal audit and other functions performed, as identified in SOAH's *Internal Audit Plan for Fiscal Year 2020*, dated January 6, 2020 and submitted to the Chief ALJ on January 17, 2020:

- Records Management
- Follow-up of Prior Year Internal Audits
- Other Tasks

This report contains the results of our audit of the Records Management Area; reflects the results of the follow-up procedures performed in the current year of findings that were presented in the prior year internal audit report; and, meets the State of Texas Internal Audit Annual Report requirements.

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INTERNAL AUDIT OBJECTIVES

In accordance with the **International Standards for the Professional Practice of Internal Auditing**, the audit scope encompassed the examination and evaluation of the adequacy and effectiveness of SOAH's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope includes the following objectives:

- **Reliability and Integrity of Financial and Operational Information** – Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- **Compliance with Policies, Procedures, Laws, Regulations, and Contracts** – Review the systems established to ensure compliance with those policies, procedures, laws, regulations, and contracts that could have a significant impact on operations and reports, and determine whether the organization is in compliance.
- **Safeguarding of Assets** – Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- **Effectiveness and Efficiency of Operations and Programs** – Appraise the effectiveness and efficiency with which resources are employed.
- **Achievement of the Organization's Strategic Objectives** – Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

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I. **Compliance with Texas Government Code 2102: Required Posting of Internal Audit Information**

To comply with the provisions of Texas Government Code, Section 2102.015 and the State Auditor's Office guidelines, within 30 days after acceptance by SOAH's Chief Administrative Law Judge, SOAH will post the following information on its website:

- An approved fiscal year 2021 audit plan, as provided by Texas Government Code, Section 2102.008.
- A fiscal year 2020 internal audit annual report, as required by Texas Government Code, Section 2102.009.

The internal audit annual report includes any weaknesses, deficiencies, wrongdoings, or other concerns raised by internal audits and other functions performed by the internal auditor as well as the summary of the action taken by SOAH to address such concerns.

II. **Consulting and Nonaudit Services Completed**

The internal auditor conducted the following study that is considered a consulting service, as defined in the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and/or a non-audit service, as defined in the *Government Auditing Standards, 2018 Revision*, Sections 3.64-3.106:

- A Report on ALJ Case Assignment

III. **External Quality Assurance Review**

The internal audit department's most recent *System Review Report*, dated November 16, 2018, indicates that its system of quality control has been suitably designed and conforms to applicable professional standards in all material respects.

IV. **Internal Audit Plan for Fiscal Year 2020**

The approved Internal Audit Plan (Plan) included one audit to be performed during the 2020 fiscal year. The Plan also included a follow-up of the prior year internal audit recommendations; other tasks, as assigned by SOAH's Chief Administrative Law Judge; and, preparation of the Annual Internal Audit Report for fiscal year 2020.

Risk Assessment

Utilizing information obtained through the inquiries and background information reviewed, 11 areas were identified as potential audit topics. A risk analysis utilizing our 8 risk factors was completed for each individual audit topic and then compiled to develop an overall risk assessment.

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Following are the results of the risk assessment performed for the 11 potential audit topics identified:

HIGH RISK	MODERATE RISK	LOW RISK
Information Resources Hearings Support (excludes ALR Hearings)	Accounting (Cash Receipts/ Disbursements/ Travel) & Budgeting Procurement/ Contract Management/ HUB Records Management	Docketing (excludes ALR Hearings) Human Resources & Payroll ALR Docketing and Hearings Support Interagency Contract Billing and Invoicing Fixed Assets Performance Measures

In the prior 3 years, internal audits were performed in the following areas:

Fiscal Year 2019:

- Human Resources & Payroll
- Follow-up of the Prior Year Internal Audits

Fiscal Year 2018:

- Docketing
- Follow-up of the Prior Year Internal Audits

Fiscal Year 2017:

- Hearings Support
- Follow-up of Comptroller’s Office FY2016 Post-Payment Audit
- Follow-up of the Prior Year Internal Audits

The area recommended for internal audit and other tasks to be performed for fiscal year 2020 were as follows:

<u>Report No.</u>	<u>Audits/Report Titles</u>	<u>Completion Date</u>
1.	Records Management <i>Objective:</i> To determine whether SOAH’s policies and procedures and internal processes in place over the Records Management Area (Area) provide reasonable assurance of compliance with state requirements; and, whether such internal controls are operating effectively.	3/31/2020
1.	Annual Internal Audit Report – Follow-Up of Prior Year Internal Audits	3/31/2020
-	Other Tasks Assigned by SOAH’s Chief Administrative Law Judge	None

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V. Executive Summary

Records Management

Background

The Records Management Area (Area) is responsible for ensuring state records are retained in accordance with applicable laws and regulations, as outlined in Chapter 441, Subchapter L of the Texas Government Code and Title 13, Part 1, Chapter 6 of the Texas Administrative Code; SOAH's established procedures and/or practices; and, its current records retention schedule (RRS) approved by the Texas State Library and Archives Commission (TSLAC). The Area is also responsible for safeguarding case records while they are in SOAH's custody. SOAH is currently in the process of centralizing the management of case records by transitioning the functions to the Chief Clerk at the main office, which have historically been performed by a legal secretary of each team and field office.

Records Management Program

Under state law, each state agency head must establish and maintain a records management program, create and maintain adequate state records, and identify and protect confidential and vital state records.

A Program Specialist, who reports directly to the General Counsel, has been designated as SOAH's Records Management Officer (RMO), whose legal responsibilities include the following:

- a) administering the agency's records management program;
- b) assisting the agency head in fulfilling his/her duties;
- c) preparing and submitting an RRS to TSLAC for (re)certification; and,
- d) communicating to employees, the agency's policies and procedures relating to records management.

In an effort to implement the records management program, SOAH has developed the Records Management Team system to define employees' roles and responsibilities. Each of SOAH's division/department supervisor, including the lead ALJ at each field office, is responsible for proper administration and timely disposition of state records under his/her authority. Division/department supervisors designate a records management liaison (RML), and guide them in performing administrative activities for records management within their respective division/department.

TAC §6.8 requires state agencies to establish policies and procedures to ensure state records are retained through the expiration of their respective retention period, as established in its RRS; TAC §6.93 requires state agency heads or designees to approve and institute written policies and procedures that communicate an enterprise-wide approach for the management practice of electronic state records; and, TAC §6.95 further requires vital electronic state records to be addressed in such policies and procedures.

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Records Retention Schedule (RRS)

SOAH's current RRS was recertified by TSLAC in January 2016. Subsequent to the recertification, SOAH submitted an amendment, which was approved by TSLAC with an effective date of January 2017. A state agency's RRS is generally required to be recertified by TSLAC every 5 years; therefore, the next recertification for SOAH's RRS is January 2021. The RMO is responsible for keeping the RRS current by submitting, to TSLAC, amendments to (a) add a record series; (b) propose an amended retention period; and/or, (c) update other information in the RRS. SOAH is currently in the process of preparing for its next RRS recertification by collecting records inventories, obtaining feedback from division supervisors, and comparing its draft RRS to the state's RRS to ensure required minimum retention periods are met.

Certain records in the RRS are identified with an "A" for designation as an archival record; while, others may be identified with an "R", which indicates that an agency must contact TSLAC's Archives and Information Services (ARIS) division for an archival review of such records. Records identified with an "A" must be transferred to TSLAC's ARIS division, where they are retained and never destroyed. Upon review of records identified with an "R", TSLAC's ARIS division will determine if the record should be archived; and, if non-archival, it will instruct the agency to destroy the record. SOAH utilizes TSLAC's model RRS to identify records requiring archiving and a review.

Records Storage

SOAH's state records, the majority being electronic, are retained in the following locations:

a) Centralized Accounting and Payroll/Personnel System (CAPPS)

CAPPS is centrally managed and maintained by the Comptroller of Public Accounts (CPA) as the Application Service Provider. SOAH has implemented the following CAPPS modules:

<i>CAPPS Module</i>	<i>Implementation</i>	
Financials	September	2016
HR/Payroll	July	2017
Recruit	May	2018

Financial, HR/Payroll, and hiring records entered and/or uploaded to CAPPS are retained in CAPPS. The CPA is responsible for data storage, security, and system maintenance for these records.

b) HR Records

As documented above, the majority of HR records are retained in CAPPS as either the original document; such as, job postings and payroll deductions, or an uploaded scanned copy; such as, job interview notes. HR records prior to CAPPS implementation are kept either in locked file cabinets inside a locked HR file room or at TSLAC's State Records Center (SRC). As of March 16, 2020, SOAH had 12 boxes of former employee verification records, for which the retention period is 75 years, stored at the SRC. The HR department also prints convenience copies of HR records from CAPPS, as necessary, and keeps them stored in the same locked file cabinets until they are no longer needed, which is generally upon the employee leaving SOAH's employment.

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c) SOAH Network Drives

Records related to agency administration, financial, payroll, and HR, not retained in CAPPs; and, sound recording files from hearings, are stored in SOAH's network drives, which are partitioned to limit access only to authorized SOAH personnel. SOAH's IT department is responsible for the administration of SOAH's network drives; including, data backup, security, and system maintenance.

d) Document Manager (DM)

Effective November 2010, SOAH began storing its general docket (GD) case files, with the exception of IDEA and ALR related files, in the DM, a document management system, which is administered by its IT department. Case files prior to the DM implementation that have not reached the 10-year retention period are stored at the SRC. As of March 16, 2020, SOAH had 8 boxes of such case files stored at the SRC, all of which will become eligible for destruction in December 2020.

e) Records Rooms

Hard-copy records¹ and exhibits of GD cases are generally held, on a temporary basis, in 2 locked Records Rooms at SOAH's main office until they are returned to the referring agencies upon closure of a case. Case records for Austin teams not yet centrally managed, are maintained in the respective ALJ's office and/or the respective team's legal secretary's office cabinets, where access is restricted by card readers.

f) Docketing Department and Field Offices

Since electronic filing is not available for ALR case files, they are retained as hard copies in the Docketing department and field offices through expiration of their retention period

Field offices are responsible for maintaining GD case files for hearings held at their respective field office, and returning them to referring agencies, as applicable.

General Records Management

Each division/department supervisor and its designated RML, are responsible for identifying and safeguarding state records for its division/department during the retention period, as determined by SOAH's RRS; and, for proper disposition of those records. For field offices, state records generally consist of ALR and GD files for cases held at the respective field office. A Records Disposition Log (RDL) is utilized for the disposition process to ensure proper disposition and documentation. An RDL is completed by an RML who, by entering required information into the RDL, ensures the records are listed in SOAH's RRS and have exceeded the retention period. The RML must obtain approval signatures from his/her team leader/supervisor, General Counsel, and the RMO before the records can be processed for disposition. General Counsel is responsible for ensuring the records, as entered in the RDL, are not subject to a hold under Government Code Sec. 441.187(b), that prohibits record destruction; such as, litigation and open records request. RDLs must be retained for 10 years

¹ Physical records that cannot be scanned in the DM are collectively called "hard-copy." Examples of hard-copy records include CDs/DVDs, oversized documents, and public case records containing confidential information.

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in accordance with the SOAH's RRS. SOAH contracts with a document destruction vendor for monthly document destruction services for its main office and all field offices. The main office also contracts with a vendor for monthly console pickup service to properly destroy electronic media and devices.

ALR File Disposition

ALR file disposition is generally performed monthly due to the large file volume. At each field office and the Docketing department at the main office, appealed ALR files are retained separately from the remaining ALR files to prevent accidental destruction, since the retention period for appealed ALR files is 3 years, versus 2 months for all others.

Each month, the Chief Clerk and each field office RML will generate, from Lotus Notes, a list of ALR cases from his/her office, and applicable remote locations, that are eligible for disposition. This list is compared to ALR case files on hand, to identify and denote appealed cases, for whose files should be retained. This list then becomes an attachment to the RDL. A properly completed and approved RDL and its attachment are first sent to an IT staff who is responsible for destroying ALR sound files in SOAH's network drive. The IT staff will first run a query to identify appealed ALR files, that may have been overlooked in the previous process, for prevention of accidental deletion. The IT staff will then delete ALR sound files, document in the RDL the number of sound files destroyed, initial and return the RDL to the RML, via the RMO. The RML will dispose of the ALR files in the shred bin, document in the RDL the number of files destroyed, initial the RDL, and return the RDL with attachment to the RMO for retention.

On a routine basis SOAH receives expunction orders, which may apply to ALR or general docket cases, that require SOAH to expunge individual case records. If the request is granted by a Judicial District Court, all records related to the case in any form must be completely purged. To ensure complete purge, SOAH has developed a routing form to be completed and signed by the RML, ALJ, IT department, Docketing department, and the RMO.

General Docket Case Records Management

Most GD case records are electronically submitted through SOAH's eFile system, and are added to and indexed in the DM after the Docketing department's review.

As documented above, SOAH is in the process of centralizing its case records management, by transitioning the responsibilities from legal secretaries of each team/field office to the Chief Clerk, as the single point of contact. The transition has been implemented by team; and, as of March 2020, case records management had been centralized for 4 of the 8 required teams, leaving the following 4 teams to be centralized:

- IDEA
- Field Offices
- Tax
- Economic

SOAH maintains custody of hard-copy GD case records only during the period the case is within SOAH's jurisdiction. After a case is dismissed, or a Proposal for Decision (PFD) is issued and deadline to file exceptions has passed or the ALJ issued an exception letter, SOAH returns all case records, exhibits, and transcripts of the case to the referring agency.

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GD case records filed with SOAH are first received by the Docketing department where the records are reviewed and then typically scanned and indexed in the DM. For hard-copy GD records, a docketing clerk generates a coversheet for the record to be indexed in the DM in lieu of the original record. The hard-copy record along with its coversheet are forwarded to the Chief Clerk. The Chief Clerk will log these hard-copy records into a spreadsheet, and then safeguards them in the Records Room. For accountability purposes, ALJs must formally check out and check in these records, which is documented in the spreadsheet by the Chief Clerk.

When an ALJ receives exhibits during a hearing, the ALJ completes and signs the *Exhibit List and Certification* form (the Certification) to document each presented item; and, if confidential, it is identified as such. ALJs are asked to provide the exhibit and the Certification to the Chief Clerk within 3 business days of the hearing for timely processing/indexing. Similar to the hard-copy records, the Chief Clerk logs the exhibits/Certifications into another spreadsheet and then safeguards them in the Records Room. For accountability purposes, ALJs must formally check out and check in these records, which is documented in the spreadsheet by the Chief Clerk.

Hard-copy and exhibits/Certification with all other case records, along with the File Delivery Index that lists these documents, are returned to the referring agency after the case is closed. The Chief Clerk utilizes Outlook calendar for timely return of case records to the referring agency. To ensure all case records are returned to the referring agency, the Chief Clerk has recently implemented the use of “record close checklists” that include steps to verify inclusion of each record listed in the Certification. Each referring agency is asked to sign and return the File Delivery Index to SOAH to acknowledge receipt of all case records.

For teams not yet centralized, case records are in custody of the assigned ALJ or legal secretary and kept in their office and/or cabinets until the records are returned to the referring agency by the respective legal secretary.

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AUDIT OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our audit was to determine whether SOAH's policies and procedures and internal processes in place over the Records Management Area (Area) provide reasonable assurance of compliance with state requirements; and, whether such internal controls are operating effectively.

Scope

The scope of this audit was for the 5-month period from September 1, 2019 through January 31, 2020 (audit period).

Methodology

The audit methodology included a review of applicable laws and regulations; SOAH's established policies and procedures, and other internal and external documentation; interviewing and corresponding with selected SOAH employees; and, observation of a sample of physical and electronic records.

We obtained and/or reviewed the following internal and external documentation:

- A. Texas Government Code Chapter 441, Subchapter L. *Preservation and Management of State Records and Other Historical Resources*.
- B. Title 13 of the Texas Administrative Code Chapter 6, Subchapter A. *Records Retention Scheduling* and Subchapter C. *Standards and Procedures for Management of Electronic Records*, as compiled by the Texas State Library and Archives Commission (TSLAC) as Bulletin 3 and Bulletin 1, respectively.
- C. Organizational chart applicable to the Area, and draft Records Management Team Phone List.
- D. Texas State Records Retention Schedule, revised 4th edition.
- E. SOAH Records Retention Schedule, certification #7.
- F. SOAH's draft records management policies and procedures, to include:
 - a. Records Management Basics
 - b. Roles and Responsibilities in Records Management Process
 - c. Procedures for Requesting Approval for Disposition of Records
- G. *Hard Copy Filing Log* and *Exhibit Log* as of March 16, 2020.

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- H. Sample checklists and templates, to include:
 - a. Exhibit List and Certification
 - b. Hard Copy Coversheets
 - c. Record Close Checklists
 - d. Exit Records Checklist
 - e. Expunction of Records Routing Form
- I. Records Disposition Logs for records destroyed during the audit period.
- J. List of general docket cases disposed during the audit period.

We performed various procedures to achieve the objective of our audit; to include, the following:

1. Reviewed and obtained an understanding of state laws and regulations, and other requirements established by TSLAC, as applicable to the Area.
2. Obtained and reviewed SOAH's written policies and procedures; and, conducted interviews, to obtain an understanding of controls, processes and current practices in place over the Area, and to evaluate whether such controls adequately ensure compliance with applicable requirements identified in procedure 1 above.
3. Reviewed SOAH's organizational structure (RMO, division/field office supervisors, RMLs, General Counsel, and IT) to assess whether the design is adequate in implementing the records management program.
4. Reviewed SOAH's RRS and Form SLR 104, *Designation of State Agency Records Management Officer (RMO)*, to verify proper and timely submission.
5. Selected a sample of 41 records from (a) SOAH RRS; (b) appealed ALR cases noted in RDL attachments; (c) list of GD cases disposed during the audit period; (d) Hard-Copy Filing Log and Exhibits Log as of March 16, 2020; and, tested for the following attributes:
 - a. Record is available and readable/audible.
 - b. Record is retained at the security level appropriate for the record type.
 - c. If applicable, record had been transferred to TSLAC's ARIS division for archiving or ARIS had been contacted for archival review.

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6. Selected a sample of 25 records destroyed during the audit period, and tested for the following attributes:
 - a. Compliance with TAC 6.8(b) relating to final disposition of state records, including archival records.
 - b. Proper internal approval was obtained prior to disposition.
 - c. The record exceeded the retention period, as listed in the RRS.
 - d. Final disposition was documented and retained.
 - e. Destruction method was appropriate for the classification (public, confidential, etc.).

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VI. Observations/ Findings and Recommendations

SUMMARY and RELATED RATING of OBSERVATIONS/FINDINGS and RECOMMENDATIONS

As SOAH’s internal auditors, we used our professional judgment in rating the audit findings identified in this report. The rating system used was developed by the Texas State Auditor’s Office and is based on the degree of risk or effect of the findings in relation to the audit objective(s). The table below presents a summary of the observations/findings in this report and the related rating.

Summary of Observations/Findings & Recommendations and Related Ratings		
Finding No.	Title	Rating
1	Records Management Program Documentation	Moderate
2	Case Records Management	Low
3	Archival Records	Low

Description of Rating

A finding is rated *Priority* if the issues identified present risks or effects that if not addressed could critically affect the audited entity’s ability to effectively administer the programs(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

A finding is rated *High* if the issues identified present risks or effects that if not addressed could substantially affect the audited entity’s ability to effectively administer the programs(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.

A finding is rated *Medium* if the issues identified present risks or effects that if not addressed could moderately affect the audited entity’s ability to effectively administer programs(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.

A finding is rated *Low* if the audit identified strengths that support the audited entity’s ability to administer the programs(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity’s ability to effectively administer the programs(s)/function(s) audited.

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OBSERVATIONS/FINDINGS and RECOMMENDATIONS

Report No.	Report Date	Name of Report	Observations/ Findings and Recommendations	Fiscal Impact/ Other Impact
1	3/31/2020	Records Management	<p>1. Records Management Program Documentation</p> <p>Various rules in the Texas Administrative Code require state agencies to establish and document policies and procedures related to record management:</p> <ul style="list-style-type: none"> a. TAC §6.8(a) requires state agencies to establish policies and procedures to ensure state records are maintained until the expiration of the retention periods in its RRS. b. TAC §6.93 requires state agency heads or designees to approve and institute written policies and procedures that communicate an enterprise-wide approach for the management practice of electronic state records. c. TAC §6.94(a)(3) requires state agencies to develop and maintain up-to-date documentation for its electronic records systems. d. TAC §6.95(4) requires state agencies to establish written policies for the protection of vital electronic state records in all forms and storage locations. <p>Our testing of the Area indicated that SOAH's various components of records management policies and procedures (P&P) are currently in draft form; and, therefore, have not been reviewed, formally approved, nor made available to SOAH employees. Such components include the following:</p> <ul style="list-style-type: none"> a. Records Management Team Phone List b. Roles and Responsibilities in Records Management Process c. Records Management Basics d. Quick Guide to Document Cleanup e. Procedures for Requesting Approval for Disposition of Records, revised <p>Recommendation</p> <p>We recommend that SOAH continue its effort in developing, documenting, finalizing, and implementing its records management P&P. Upon the P&P being finalized, all SOAH employees should receive adequate training to understand their roles and responsibilities in the records management program.</p> <p>Management's Response</p> <p>SOAH agrees with the finding and continues to develop, document, finalize and implement records management P&P. In April 2020, the Quick Guide to Document Cleanup has been approved and added to SOAH's intranet. Records management liaisons and supervisors have been made aware of the document, and training has begun.</p>	<p>Compliance with TAC §6.8(a), §6.93, §6.94(a)(3), and §6.95(4).</p>
			<p>2. Case Records Management</p> <p>In accordance with TAC §155.423 (f)(2), SOAH will return case records; to include, "hard-copy" documents, exhibits, and transcript or recordings (collectively "agency files") to the referring agency no later than after:</p> <ul style="list-style-type: none"> a. the judge has issued the final decision; or b. the judge has issued the proposal for decision and the deadline for filing exceptions and replies has passed. 	<p>Timely return of all case records to referring agencies.</p>

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1	3/31/2020	Records Management	<p>To timely account for exhibits received during a hearing, the presiding ALJ is required to complete the <i>Exhibit List and Certification</i> (the Certification); and, provide the exhibits and the Certification to the Chief Clerk within 3 business days of the hearing. However, it is our understanding from discussions held with the Chief Clerk that this procedure is not always performed by all ALJs. Unless a transcript of the hearing is available, without the ALJs' prompt submission of the Certification to the Chief Clerk, exhibits presented during a hearing cannot be timely accounted for. While the Chief Clerk has developed additional mitigating procedures to identify and return all agency files to referring agencies in a timely manner, these internal controls will not operate effectively without cooperation from all ALJs. This was further exposed when records, which should have been returned to the referring agency, were found during the centralization transition process.</p> <p>Recommendation</p> <p>We recommend that all ALJs be reminded by their supervisor and/or RMO of the importance in the timely processing of the Certification.</p> <p>Management's Response</p> <p>SOAH agrees with the finding and the Deputy Chief for Hearings will work with ALJ team leaders to convey the importance of timely processing of the Certification.</p>	
			<p>3. Archival Records</p> <p>TAC §6.8(b)(1) requires that the final disposition of state records must ensure that archival state records scheduled to be preserved by TSLAC are transferred to TSLAC. SOAH does not have formal procedures in place to ensure that TSLAC's Archives and Information Services (ARIS) division is contacted to review state records for potential archival value ("archival review records") prior to their destruction.</p> <p>Recommendation</p> <p>For each archival review record, SOAH should establish procedures to ensure compliance with the final disposition requirement of TAC §6.8(b)(1).</p> <p>Management's Response</p> <p>SOAH agrees it needs to complete the final steps needed to obtain archival review or certain older records stored at SOAH that are past their retention period. SOAH will modify records management procedures to improve identification or archival records and establish a process where records are submitted for archival review on a routine or re-occurring basis.</p>	Compliance with TAC §6.8(b)(1)

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1	3/31/2020	2020 Follow-Up	<p><u>Follow-Up of Prior Year Internal Audits</u></p> <p><i>Following is the status of the recommendations made during previous fiscal years that had not been fully implemented.</i></p> <p><u>Human Resources & Payroll (Report date 3/8/2019)</u></p> <ol style="list-style-type: none"> <p>Employment Discrimination (EEO) Training</p> <p>SOAH should develop a process that will ensure they are compliant with the EEO training program state requirement.</p> <p>Personnel File Documents</p> <p>HR should implement procedures that will ensure required forms and acknowledgements are completed and received from the employees for retention in their personnel file.</p> <p>OBSERVATION</p> <ol style="list-style-type: none"> <p>New Employee Training</p> <p>SOAH should develop procedures to ensure that all employees complete the mandatory training courses, and that the certificates of completion be retained in the employee's personnel file. SOAH may also consider electronic verification, which will improve efficiency by eliminating the need for printing, emailing, and filing certificates of completion.</p> <p><u>Docketing (Report date 5/1/2018)</u></p> <ol style="list-style-type: none"> <p>Performance Measures Reporting</p> <p>SOAH should revise previously submitted performance measures, if possible, in lieu of changing dates in CMS since CMS should reflect accurate information; or, require that the Legal Administrative Assistant submit the DCF's no later than 3 days from the date the document was uploaded to Document Manager.</p> <p>OBSERVATION</p> <ol style="list-style-type: none"> <p>Policies & Procedures</p> <p>SOAH should consolidate, streamline, or revise its current policies and procedures to be consistent with SOAH's standard policies and procedures which will ensure policies and procedures are up-to-date to improve efficiency, and eliminate redundant procedures.</p> <p><i>Explanation for FY20 Status</i></p> <p>SOAH's effort in consolidating formal policies and procedures is still ongoing.</p> 	<p>Fully Implemented</p> <p>Fully Implemented</p> <p>Fully Implemented</p> <p>Fully Implemented</p> <p>Fully Implemented</p> <p>Incomplete/ Ongoing</p>

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1	3/31/2020	2020 Follow-Up	<p><u>Hearings Support (Report date 6/30/2017)</u></p> <p>OBSERVATION</p> <p>1. Policies and Procedures</p> <p>Policies and procedures which were in draft form should be reviewed and finalized to ensure all employees involved in the Hearings Support area perform processes in a uniform manner.</p> <p><i>Explanation for FY20 Status</i></p> <p>Certain policies and procedures have been finalized as of January 2020; however, the Administrative Assistant Handbook is still in draft form and has not yet been finalized.</p> <p>2. Agency-Specific Procedures</p> <p>Agency-specific policies, procedures, current practices, interagency contracts, and adopted procedural rules should be reviewed in detail to determine if procedures can be consolidated, streamlined, or revised to be consistent with SOAH's standard policies and procedures, which will alleviate the assistants' excessive duties, improve efficiency, and eliminate redundant procedures.</p> <p><i>Explanation for FY20 Status</i></p> <p>Certain policies and procedures have been finalized as of January 2020; however, the Administrative Assistant Handbook is still in draft form and has not yet been finalized.</p> <p><u>Information Resources (Report date 7/1/2016)</u></p> <p>1. Ongoing Employee Training Program</p> <p>SOAH should establish and document a formal employee training policy.</p> <p><i>Explanation for FY20 Status</i></p> <p>SOAH has developed information resources training policies; however, they have not been formalized as written policy.</p> <p>2. Documentation of Formal Procedures</p> <p>SOAH should formally document and periodically review current control activities and best practices performed by the IR department's personnel and retain them in a secure location available only to authorized personnel.</p> <p><i>Explanation for FY20 Status</i></p> <p>SOAH's effort in documenting current practices as formal written policies and procedures is still ongoing.</p>	<p>Substantially Implemented</p> <p>Substantially Implemented</p> <p>Substantially Implemented</p> <p>Incomplete/ Ongoing</p>

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VII. External Audit Services Procured in Fiscal Year 2020

SOAH procured the internal audit services documented in the approved Internal Audit Plan for fiscal year 2020. No other external audit services were performed.

VIII. Reporting Suspected Fraud and Abuse

SOAH has provided information on its website home page on how to report suspected fraud, waste, and abuse to the State Auditor's Office (SAO) by posting a link to the SAO's fraud hotline. SOAH has also developed a Fraud Reporting Policy that provides information on how to report suspected fraud, waste, and abuse to the SAO.

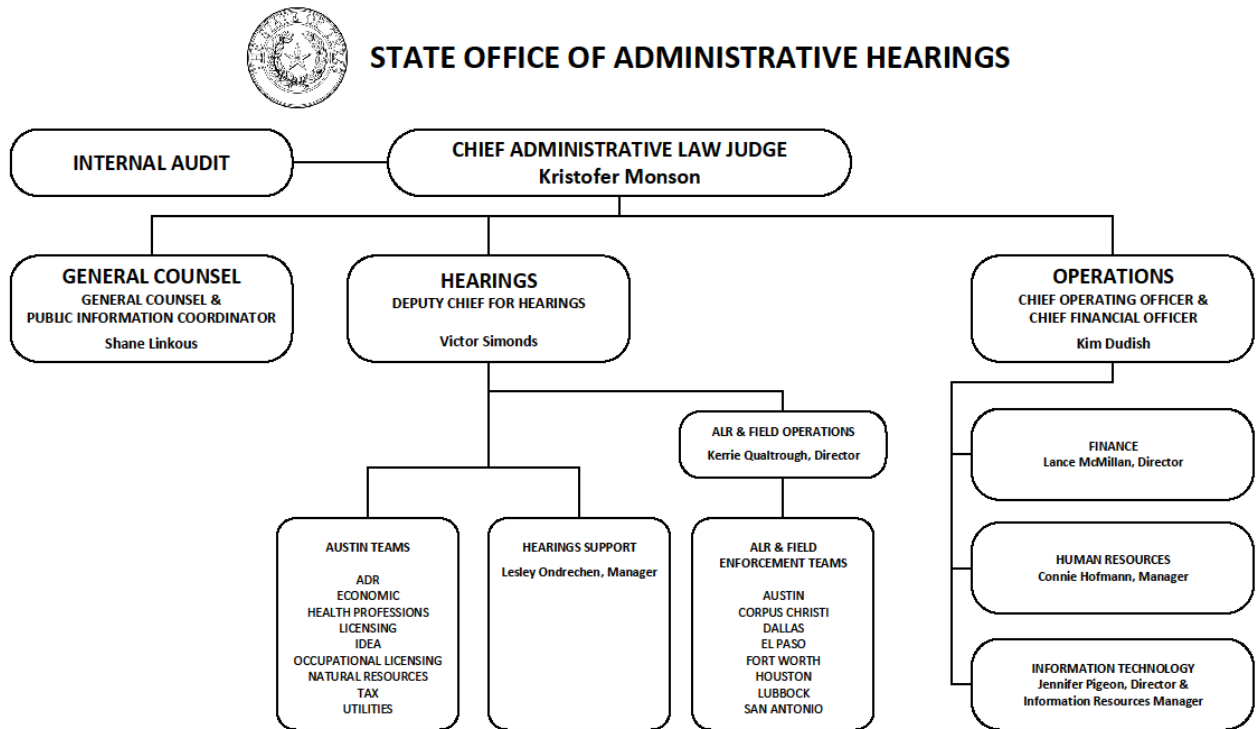
IX. Proposed Internal Audit Plan for Fiscal Year 2021

The risk assessment performed during the 2020 fiscal year was used to identify the following *proposed* area that is recommended for internal audit and other tasks to be performed for fiscal year 2021. The Internal Audit Plan for fiscal year 2021 will be developed and presented to the Chief Administrative Law Judge, for acceptance and approval, at a later date.

- Procurement / Contract Management / HUB
- Follow-up of fiscal year 2020 Post-Payment Audit
- Follow-up of Prior Year Internal Audits
- Other Tasks Assigned by the Chief Administrative Law Judge

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X. Organizational Chart



February 10, 2020

Source: SOAH